

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of the -----)
PUBLIC UTILITIES COMMISSION)
Instituting a Proceeding to)
Investigate the Reasonableness)
of Establishing Rate Flexibility)
for Motor Carriers of Passengers)
and Property.)
_____)

DOCKET NO. 03-0245

DECISION AND ORDER NO. 20704

Filed Dec. 5, 2003
At 8:00 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

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ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

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DECISION AND ORDER

I.

General Background¹

A.

Motor Carrier Rates

In accordance with Hawaii Revised Statutes ("HRS") chapter 271 (aka the Motor Carrier Law), motor carriers of passengers and property are subject to the commission's regulation and jurisdiction. Passenger carriers are classified by the commission-designated seating capacities of the motor vehicles utilized: 1-to-7, 8-to-25, and over-25. Property carriers are classified by the type of commodities transported and the nature of the services performed: general commodities, household goods, commodities in dump trucks, and specific

¹The commission takes administrative notice of the information and data on file governing motor carriers of passengers and property.

commodities. Under HRS chapter 271, motor carriers operate as common or contract carriers.

The commission's jurisdiction over the motor carrier industry includes the review and regulation of each carrier's rates and charges. The ratemaking process long observed by the commission for the motor carrier industry is the operating ratio methodology. Based on its past practice, the commission has found reasonable a motor carrier's operating ratio of ninety (90) to ninety-three (93) per cent, under the carrier's "normalized" operational structure.

In general, it is the duty of every motor carrier to observe and implement just and reasonable rates and charges. HRS §§ 271-20, 271-21, and 271-22. Each carrier's proposal to establish new rates or to increase or decrease its existing rates is subject to individual scrutiny by the commission.

Rate notices seeking to establish initial rates or to change a carrier's existing rates are filed individually by the carrier, the carrier's authorized tariff agent, or by a tariff association or bureau acting on behalf of their member carriers that participate in a particular passenger or property service or classification.² The commission, upon its review, generally suspends, dismisses without prejudice, denies, or allows the rate proposal to take effect upon operation of law. HRS §§ 271-20, 271-21, and 271-22.

²Rate notices filed on behalf of member carriers by a tariff association or bureau utilize the financial data and information of certain sample member carriers, that purportedly comprise a "representative sample" of the participating member carriers.

B.

PUC Investigation

On August 29, 2003, the commission opened an investigation to examine the feasibility of establishing: (1) a zone of reasonableness for motor carriers of passengers and property, whereby specific percentage increases or decreases in a carrier's rates and charges within an established zone is automatically approved, if the requested changes are within a zone or range authorized by the commission for that carrier's operations; or (2) "some other mechanism to expedite the ratemaking and rate review procedures for regulated motor carriers."³

The commission, in opening its investigation, noted that:

1. For the fiscal year ending June 30, 2002, 527 motor carriers of passengers and 373 motor carriers of property were subject to the commission's jurisdiction. Presently, approximately 568 motor carriers of passengers and 392 motor carriers of property are regulated by the commission.

³See Order No. 20409, filed on August 29, 2003; and Notice to All Motor Carriers: Zone of Reasonableness, dated September 8, 2003. In addition to the named parties, the commission served a copy of Order No. 20409 upon all motor carriers of passengers and property. See First Supplemental Certificate of Service, dated September 9, 2003.

Following the issuance of Order No. 20409, two WMTB member carriers, PHT, Inc., dba Polynesian Hospitality, and Big Isle Moving & Draying, Inc. submitted their respective comments supporting in general the zone concept. See PHT, Inc.'s letter, filed on September 18, 2003; and Big Isle Moving & Draying, Inc.'s letter, filed on September 26, 2003.

This trend of additional, interested persons entering the motor carrier business is reflected in the new applications for certificates of public convenience and necessity ("CPCNs") filed with the commission on a regular basis, and the issuance of CPCNs to newly authorized carriers.

2. The available information and data suggests that the motor carrier industry today is a highly competitive industry statewide.

The commission named the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"), Hawaii State Certified Common Carriers Association, Inc. ("HSCCCA"), Hawaii Transportation Association, Inc. ("HTA"), and Western Motor Tariff Bureau, Inc. ("WMTB"), as parties to the commission's investigation. In addition, the commission invited interested persons to "intervene or participate in the commission's investigation, or to submit written comments on the carrier's behalf."

On October 23, 2003, the commission solicited comments from the parties and interested persons on a specific proposal to establish a zone of reasonableness for motor carriers of passengers and property or to propose any other preferred zone of reasonableness ("Zone").⁴

⁴See Order No. 20592, filed on October 23, 2003; and Notice to All Motor Carriers: Zone of Reasonableness, dated October 24, 2003. In addition to the named parties, the commission served a copy of Order No. 20592 upon all motor carriers of passengers and property, soliciting their review and comments on the zone proposal. See First Supplemental Certificate of Service, dated October 28, 2003.

By November 12, 2003, the parties and interested persons timely submitted their comments to the commission. Specifically, comments were submitted by:

1. The four parties: HSCCCA, on November 3, 2003, and the Consumer Advocate, HTA, and WMTB, on November 12, 2003.

2. Individual motor carriers: Taizo Murata, dba Pacific Island Scuba, on October 29, 2003; Kona Transportation Co., Inc., on October 30, 2003; Dependable Hawaiian Express, Inc., dba DHX, and Aloha-State Tour & Transportation Co., Ltd., on November 3, 2003; Arthur's-Star 21, Inc., dba Arthur's Limousine Service and Maui Classic Coach, on November 5, 2003; Polynesian Adventure Tours, Inc., on November 10, 2003; and Robert's Tours & Transportation, Inc., on November 12, 2003.

These individual carriers represent a cross-section of passenger and property carriers statewide. Three carriers are WMTB members, one is a member of HSCCCA, and the other three carriers file their own rate notices and transmittals.

II.

Proposed Zone of Reasonableness

The commission solicited comments on the following components of a proposed Zone:

1. For purposes of discussion, the commission is considering a Zone with points within the range of plus or minus ten (10) per cent from a motor carrier's base rate.⁵

⁵A motor carrier's base rate is the applicable tariff rate on file with the commission on January 1, 2004. For a new motor carrier certificated by the commission after January 1, 2004, that carrier's base rate is its initial, tariff rate on file with the commission.

2. The Zone will be effective during a one-year pilot period, from January 1, 2004 to December 31, 2004.
3. During the pilot period, a motor carrier's proposed increases or decreases to its base rate, shall be within the zone or range authorized by the commission.
4. A motor carrier's proposed rate change that falls within the Zone is presumptively valid, i.e., just and reasonable.
5. A motor carrier's proposed rate change remains subject to the applicable tariff filing requirements under HRS chapter 271 and Hawaii Administrative Rules ("HAR") chapters 6-62 and 6-63. These requirements include the thirty (30)-day advance notice provision, or its short notice alternative. The tariff suspension and denial provisions also apply.
6. During the pilot period, the commission envisions that unforeseen issues may arise, based on a requesting carrier's tariff or circumstances.

The commission reserves the right, at any time, to adjust or change the Zone or its applicable requirements, in order to "fine tune" the Zone concept.
7. Upon the completion of the pilot period, the Zone will be terminated unless otherwise continued or modified by decision of the commission.

The commission asked that all comments submitted include a discussion, recommendations, and basis for recommendations on:

1. Whether the commenter supports or opposes the Zone concept for motor carrier ratemaking;
2. What a reasonable range of the Zone should be within a plus or minus ten (10) per cent range from a carrier's base rate;

3. Any alternative range the commenter believes is reasonable; and
4. Whether a motor carrier's increases or decreases in its fuel surcharge rate should be included or excluded from the Zone, i.e., whether a carrier's fuel surcharge rate should be rolled into the carrier's Zone.

III.

Motor Carriers' Comments

A.

Motor Carrier Industry Representatives

HTA is a private, non-profit trade organization dedicated to serving and assisting the ground transportation industry in Hawaii. It comprises approximately 350 regulated carriers, private carriers, and allied industry members. HTA serves as a central source of information by conducting research and education programs for its members. It also represents the industry's interests before local, state, and federal agencies.

HSCCCA operates as a tariff agent on behalf of its member carriers of passengers, with a maximum seating capacity of twenty-five (25), for the purpose of filing tariffs with the commission. Its membership is limited to Oahu-based carriers.

WMTB operates as a tariff bureau on behalf of its member carriers of passengers and property, for the purpose of filing tariffs with the commission. WMTB's membership is statewide, and it has on file with the commission numerous

tariffs with statewide application, including its household goods, dump truck, and passenger carrier tariffs.

A motor carrier's participation and membership in these respective organizations is voluntary. Carriers have the option of filing their individual tariffs with the commission.

B.

Zone Concept

In general, the motor carrier industry representatives and individual carriers that submitted comments support a Zone concept for streamlining the motor carrier rate review and approval process.⁶ No one from the industry voiced any opposition to the Zone. In summary, beginning with the motor carrier industry representatives:

- HTA "supports the zone of reasonableness concept for motor carrier rates."
- HSCCCA opines that the Zone concept "is just and reasonable by virtue of its merits in expediting the tariff rate making and review process."
- WMTB "supports, in theory, the Zone of Reasonableness concept."

From the individual carrier's perspective:

- Aloha-State Tour & Transportation Co., Ltd. believes that "any move toward a more flexible and reasonable

⁶Specifically: HSCCCA, HTA, WMTB, Big Isle Moving & Draying, Inc., PHT, Inc., Pacific Island Scuba, Kona Transportation Co., Inc., Dependable Hawaiian Express, Inc., Aloha-State Tour & Transportation Co., Ltd., Arthur's-Star 21, Inc., Polynesian Adventure Tours, and Robert's Tours & Transportation, Inc.

rate regulation is favorable[,]" and that "some reasonable flexibility in rate regulation is very prudent and beneficial." Also, the market place, i.e., competition, will dictate motor carrier rates, "but realize that rate regulation is necessary to balance both carriers and their customers [interests]."

- Big Isle Moving & Draying, Inc. strongly supports the speedy adoption of a Zone, to allow motor carriers "to proceed in an expeditious manner as to not force those carriers out of the market or to operate at a loss."
- Dependable Hawaiian Express, Inc. offers a historical perspective of deregulation, then finds it reasonable to allow motor carriers to raise their rates to recover the cost increases in oil, fuel, labor, and equipment.
- PHT, Inc. states that the passenger carrier industry has suffered tremendous economic losses due to the decrease in visitors resulting from certain national and international events. That said, "[t]he motor carrier industry has demonstrated throughout the years that its increase[s] have been more than reasonable with no requests for increases spanning many years due to increases in volume negating the need."
- Polynesian Adventure Tours, Inc. states that the motor carrier industry "has become decidedly more competitive in recent years as the Japanese recession, the war on terrorism and the economic recession in North America have caused revenues to shrink considerably." "The

effect of this shrinkage is to create a marketplace that is self-policing from a pricing standpoint. The competition for the remaining business is very keen, and this will act as a brake on overly aggressive price increases, even with the Zone of Reasonableness." It further notes that the current ratemaking process does not allow for the immediate recovery of increases in insurance and medical premiums.

C.

Reasonable Range of the Zone

All three industry representatives (HSCCCA, HTA, and WMTB) support the proposed range of plus or minus ten (10) per cent from a motor carrier's base rate. HTA further states that it "would not support a minus range that is greater than the plus range."

Among the individual carriers, Kona Transportation Co., Inc., Aloha-State Tour & Transportation Co., Ltd., Polynesian Adventure Tours, Inc., and Robert's Tours & Transportation, Inc., affirmatively support the plus or minus ten (10) per cent range.

Conversely, while Dependable Hawaiian Express, Inc. "encourage[s] the zone of reasonableness from the standpoint of allowing existing carriers to pass along cost increases[,] . . . allowing someone to reduce their rates, to gain business currently being handled on Island, when the infrastructure isn't

producing an overall profit for those currently servicing it, doesn't make sense."⁷

D.

Fuel Surcharge

HSCCCA and WMTB both support the inclusion of the fuel surcharge rate into a carrier's zone. HSCCCA notes that "fuel surcharge fluctuations have a definite effect in determining a motor carrier's operating ratio." HTA opposes the rolling in of a carrier's fuel surcharge rate into the carrier's zone. HTA states: "An uncertain fuel pricing and taxing future prompts the need for the surcharge to remain separate."

⁷As previously noted, PHT, Inc. and Big Isle Moving & Draying, Inc. submitted their respective comments **prior to** the commission's issuance of Order No. 20592, which outlined for discussion the proposed zone and range. Thus, PHT, Inc. supports a proposed range "whereby the PUC will automatically approv[e] a 5% increase or a 10% decrease requested by the WMTB or other tariff bureau(s)." Big Isle Moving & Draying, Inc., meanwhile, urges the commission "to set this zone at the 10% level so as to allow carriers greater flexibility in addressing revenue and cost concerns."

To add further confusion, Arthur's-Star 21, Inc. believes that "the proposed 5% amount is acceptable and that a fuel surcharge should also be included."

With respect to PHT, Inc.'s and Arthur's-Star 21, Inc.'s comments, they appear to refer to the commission's initial "Notice to All Motor Carriers: Zone of Reasonableness," dated September 8, 2003, which states, in part:

Under the zone of reasonableness concept, rate increases and rate decreases within the Commission's approved zone, e.g., rate increases of up to 5 per cent and rate decreases of 10 per cent, will be automatically approved.

Kona Transportation Co., Inc. prefers "to have fuel surcharges be rolled into the rates."⁸ Arthur's-Star 21, Inc., Polynesian Adventure Tours, Inc., and Robert's Tours & Transportation, Inc., also support the inclusion of the fuel surcharge.

Conversely, Aloha-State Tour & Transportation Co., Ltd. believes that "any fuel surcharges should be excluded from" the Zone.

E.

Other Issues

The industry representatives and individual carriers, on their own, raise certain clarifying issues. This action, the commission finds, is consistent with paragraph 6 of the proposed Zone:

During the pilot period, the commission envisions that unforeseen issues may arise, based on a requesting carrier's tariff or circumstances.

The commission reserves the right, at any time, to adjust or change the zone or its applicable requirements, in order to "fine tune" the zone concept.

HTA seeks clarification on whether a carrier's base rate is fluid, such that a carrier, under the Zone concept of a

⁸Kona Transportation Co., Inc. provides two reasons in support:

1. "[T]he cost of fuel increases differ around the state."
2. To avoid customer confusion. "As an example, fuel surcharges are shown when billing for labor. Customers cannot understand why fuel surcharges apply to a person."

presumptively just and reasonable rate, can theoretically compound the carrier's rate increases of ten (10) per cent, each time the carrier files for a rate increase during the one-year pilot period.⁹ Similarly, Robert's Tours & Transportation, Inc. asks whether a carrier's base rate rises after each increase, or is it fixed at the January 1, 2004 rate.

⁹HTA specifically asks:

Our opinion is a motor carrier cannot compound the percentage of flexibility indefinitely.

For example, assume a flex of 10%, and a base rate of \$100.

If a carrier elects to increase [its] rate from \$100 to \$110, that would be presumed just and reasonable. However, the carrier would not be able to implement any further increases based on the flex concept since that would push the rate beyond 10% of the original base rate of \$100.

So, if you apply a 10% increase to make your rate \$110, then apply another 10% (which is within the zone range) to make the rate \$121, your rate becomes 21% over your base rate of \$100. The presumption of reasonableness does not apply to that second 10%.

Others have an opinion saying that after the application of the first 10% to bring the rate to \$110, the "new" base rate is automatically \$110. In this scenario a second increase of \$11 is within 10% of the new base so is presumed just and reasonable. In this scenario, there is no ceiling since the floor (base rate) is fluid.

We would like to know which scenario the commission intends in the proposed program.

HTA also seeks to confirm that a carrier's new base rate will be annually set on a calendar year basis, beginning January 1st of each year.¹⁰

WMTB states that the commission does not mention cost studies to prove the adequacy of a motor carrier's rate notice. WMTB recommends that carriers be required to file an income and expense statement "to insure that the industry will not exceed the allowable operating ratio of 90% to 93%."¹¹

Robert's Tours & Transportation, Inc. poses the following questions:

1. Whether a carrier's increase is limited to one request.
2. Whether the Zone is limited to across-the-board increases, or "can it also be used for selected items, e.g. airport transfers, circle island tours?"
3. If the Zone applies to selected items, "will it be possible for a carrier to reduce its rates on certain items while requesting a general increase on all others?"
4. "If there is outside intervention to a carrier's request, . . . will the carrier's request for an increase be held up?"

¹⁰HTA notes:

If our opinion prevails in the previous clarification request, the base rate is clearly defined. However, assuming the zone concept is extended beyond 2004, how and when would the carrier's base rate be modified?

For example, would the base rate be whatever is on file with the PUC on January 1, 2005, and subsequent January 1's? This scenario implies a calendar year annual modification of the base rate.

¹¹WMTB also advocates that the commission treat interest and employee entertainment expenses, as well as charitable contributions, as "above the line" expenses for regulatory ratemaking purposes. These issues, the commission finds, are beyond the scope of this investigative docket.

5. "Will there be a 'comfort' zone whereby the applying carrier's operating ratio must be a certain per cent in excess of the per cent increase applied for?"¹²
6. The required financial data to support the Zone increase.
7. For WMTB member carriers, "will the Zone apply to WMTB as a whole (meaning the increase would apply to all member carriers except those flagging out), or will each member carrier have to file individually (which would lead to massive paper work)?"

If WMTB is entitled to file on behalf of its member carriers, "will the application process for the increase still be the same - meaning the application for an increase would be based on financial data from sample carriers, or will the commission want financial data from all members joining in on the increase?"

IV.

Consumer Advocate's Comments

The Consumer Advocate is unable to make a recommendation at this time, given its view that the proposed Zone lacks specificity. Instead, it seeks clarification, as follows:

1. How the commission will determine whether a carrier's base rate, which represents the starting point of a carrier's Zone, is reasonable.
2. Similar to Robert's Tours & Transportation, Inc.'s inquiry, whether "the carriers belonging to the bureau will be allowed to file independent action or whether the carriers will be required to

¹²Robert's Tours & Transportation, Inc. states, "[f]or example, if a carrier applying for a 10% increase had an operating ratio of 101% -- would the commission reject the request, or reduce the amount requested, based on the fact that the resulting increase may reduce the carrier's operating ratio below the Zone?"

participate in the filing for all carriers participating in a given tariff."

3. Consistent with HTA and Robert's Tours & Transportation, Inc.: (A) whether a motor carrier is limited to a maximum annual increase of ten (10) per cent over the base rate in effect at the start of the pilot program; and (B) identifying the financial data and information "required from the carriers or the affected customers prior to the implementation of the zone in order to effectively evaluate the proposed zone."

"Without knowing what kinds of data the Commission would require and review, the Consumer Advocate is unable to fully support [the] proposal at this time."

4. The criteria the commission intends to utilize to "determine whether the zone or its applicable requirements require adjustment."

V.

One-Year Pilot Program: Zone of Reasonableness

The commission finds that:

1. It regulates over 950 motor carriers of passengers and property. The available information and data suggests that the motor carrier industry today is a highly competitive industry statewide.

2. Expediting the motor carrier rate review and approval process, on a pilot program basis, is just, reasonable, and consistent with the public interest. No motor carrier industry representatives or individual carriers submitted comments opposing the proposed zone.

3. Motor carrier rate changes that fall within the range or Zone of Reasonableness, specified in paragraph 3, below, are presumptively just and reasonable.

The commission, pursuant to HRS chapters 269 and 271, establishes the following Zone of Reasonableness for motor carrier rates:

1. The Zone of Reasonableness will be in effect for a one-year pilot program, from January 1, 2004 to December 31, 2004.
2. A motor carrier's base rate is the applicable, approved tariff rate on file with the commission, effective as of January 1, 2004.

For a new motor carrier authorized or certificated by the commission after January 1, 2004, that carrier's base rate is its initial, approved tariff rate on file with the commission.

A carrier's base rate includes the carrier's approved fuel surcharge rate, if applicable.

Thus, as set forth above, a carrier's base rate is its approved tariff rate the commission has found to be "just and reasonable" under normal ratemaking procedures.

3. The Zone of Reasonableness consists of points within the range of plus or minus ten (10) per cent from a motor carrier's base rate. The total range of a carrier's Zone, thus, is twenty (20) per cent.

A carrier's fuel surcharge rate is included in the Zone of Reasonableness range, i.e., is rolled into the carrier's Zone.

Also, a carrier's base rate is fixed, and does not fluctuate or compound with each new, approved rate change.¹³

4. A motor carrier's proposed increases or decreases to its base rate that fall within the Zone of Reasonableness is presumptively valid, i.e., "just and reasonable."
5. A motor carrier's proposed rate change remains subject to the applicable tariff filing requirements under HRS chapter 271 and HAR chapters 6-61, 6-62, and 6-63.

¹³In other words, HTA's first example set forth in footnote 9, above, is correct.

These requirements include the thirty (30)-day advance notice provision, or its short notice alternative. The tariff contents, protest, suspension, and denial provisions also apply.

The commission will continue to issue its monthly motor carriers' tariff order, listing the rate notices and rate change transmittals that will or have taken effect during the pilot period.

6. A motor carrier's rate change is not limited to one request, nor is it limited to across-the-board rate changes. A carrier's rate change can apply only to selected services or items, if the carrier so chooses.

7. An authorized tariff agent or bureau can file rate notices or rate change transmittals on behalf of its member carriers. The member carriers, in turn, have the option of "flagging out."

"Independent actions," at a carrier's option, are also allowed.

8. A motor carrier is entitled to seek rate changes that fall outside the carrier's Zone. If so, the presumption of justness and reasonableness will not apply. Instead, the carrier will have the burden of proving that its proposed rate change is just and reasonable.¹⁴

9. The commission envisions that unforeseen issues may arise, based on a requesting carrier's tariff or circumstances.

The commission reserves the right, at any time, to: (A) adjust or change the Zone of Reasonableness or its applicable requirements, in order to "fine tune" the Zone concept; or (B) terminate the Zone, upon a finding that the pilot program appears to adversely affect the public interest.

¹⁴Example. On March 1, the commission approves Carrier X's request for a ten (10) per cent general rate increase, which falls within Carrier X's Zone of Reasonableness. On April 20, Carrier X files a request for an additional five (5) per cent general rate increase, which is outside its Zone of Reasonableness. Carrier X must prove that its additional (5) per cent increase is just and reasonable under the commission's normal ratemaking procedures for the commission to approve this additional increase.

10. Upon the completion of the pilot period, the Zone of Reasonableness will be terminated, unless otherwise continued or modified by the commission.

Should the commission find that the continuation of the pilot program in the year 2005 is in the public interest, the commission intends to re-set or adjust the base rate and the range of the Zone for 2005, following its review of the relevant data and information.

The commission is cognizant of WMTB's, Robert's Tours & Transportation, Inc.'s, and the Consumer Advocate's comments on the financial data required to support a motor carrier's proposed rate change under the Zone of Reasonableness. In response, the commission notes that carriers must continue to comply with HAR chapter 6-63, "Motor Carrier Tariffs and Schedules," when filing proposed rate changes. No additional information is required under the pilot program.

The commission also recognizes Dependable Hawaiian Express, Inc.'s objection to the inclusion of rate decreases in the Zone of Reasonableness. In response, the commission finds that excluding rate decreases will defeat the intent of the Zone's concept of streamlining the rate review and approval process, and encouraging competition.

The commission is well aware that the majority of motor carriers utilize a calendar year accounting period and their corresponding financial records conform to such. That said, during the pilot program's fourth (4th) quarter, the commission intends to solicit comments and data to determine whether to continue or modify the pilot program for the year 2005 and beyond, or to terminate the program. The data and information the commission intends to solicit is not specified at this time.

The commission is optimistic that: (1) the rate increases implemented by motor carriers within the Zone of Reasonableness will not result in the carrier's operating ratio decreasing below the commission's ninety (90) per cent acceptable amount; and (2) unlawful collusion, other illegal forms of price-fixing, or abuses, will not result.

Lastly, the commission, on an on-going basis, will accept written comments and feedback from the general public and motor carrier community on the effects of the Zone of Reasonableness.

VI.

Orders

THE COMMISSION ORDERS:

1. A one-year Zone of Reasonableness pilot program governing the commission's motor carrier rate review and approval process, as described in Section V, above, is established. The program will take effect on January 1, 2004.

2. It reserves the right, at any time, to: (A) adjust or change the Zone of Reasonableness or its applicable requirements, in order to "fine tune" the Zone concept; or (B) terminate the Zone, upon a finding that the pilot program appears to adversely affect the public interest.


3. Upon the completion of the pilot period, the Zone of Reasonableness will be terminated, unless otherwise continued or modified by the commission.

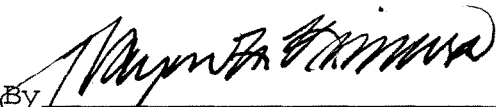
4. WMTB and any independent motor carriers that presently assess a fuel surcharge shall file with the commission and Consumer Advocate, by December 31, 2003, their revised tariff sheets, setting forth their base rate with the inclusion of the fuel surcharge.

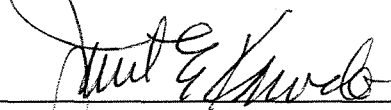
5. The parties' deadline to file any motions for reconsideration or clarification of this decision and order is December 17, 2003, pursuant to HAR chapter 6-61, subchapter 14.

DONE at Honolulu, Hawaii this 5th day of December, 2003.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Michael Azama
Commission Counsel

03-0245.sl1

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 20704 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Karen Higashi

DATED: December 5, 2003